

Exhibit 1:

Declaration of Timothy Poxson

Filed in *Does #1-5 v. Snyder*, 2:12-cv-11194 (E.D. Mich.) at ECF No. 63-5

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOES #1-5 and MARY DOE,

Plaintiffs,

v.

RICHARD SNYDER, Governor of the
State of Michigan, and COL. KRISTE
ETUE, Director of the Michigan State
Police, in their official capacities,

Defendants

No. 2:12-cv-11194

Hon. Robert H. Cleland

Magistrate Judge David Grand

DECLARATION OF TIMOTHY POXSON
REGARDING RESULTS OF SURVEY OF LAW ENFORCEMENT AGENCIES AND
PROSECUTORS' OFFICES

I, Timothy Poxson, state as follows:

I was born on 1949 in Lansing, MI. I currently work as a realtor in East Lansing, MI. Previously I served as a military police officer for four years and in the Lansing Police Department for 22 years. I was once on the Michigan Sex Offender Registry, but my registration period has since expired.

I am an unpaid volunteer for the American Civil Liberties Union of Michigan (ACLU). I volunteer at the ACLU of Michigan's Lansing office. I began volunteering with the ACLU in 2009. I volunteer on a weekly basis.

I made the calls detailed in this declaration upon the request of Shelli Weisberg, Legislative Director, and Miriam Aukerman, Staff Attorney. The survey summary, below, submitted to this Court is a complete and accurate summation of the responses I received to questions I asked local law enforcement and prosecutors' offices in Michigan regarding their enforcement of the Sex Offender Registration Act (SORA).

I. Executive Summary of Calls to Local Law Enforcement

During several days in the fall of 2013 I made phone calls to local law enforcement agencies and asked questions regarding their enforcement of the Sex Offender Registration Act (SORA). I made a total of 31 calls to 23 different departments. The questions that I asked are as follows:

- Vehicles: How many times can a registrant borrow a car before reporting that they regularly use it?
- Internet: Must an individual report when setting up an online bank account? Mlive Account? Amazon account? X-Box account?
- Address Changes: If the registrant changes their residence on a Friday, what is the latest day that they can report that change? Is a homeless registrant who spends seven nights staying with a friend required to register at that friend's address?
- Employment: Must a registrant report shoveling snow for pay? If a registrant works for an employer and subsequently changes job positions, but continues to work for that same employer, must the registrant report this to law enforcement?
- Education: If a registrant enrolls in online classes, must they report that to law enforcement?
- Travel: If a registrant intends to travel for more than 7 days, but does not know exactly where they will be staying, how should that registrant report that to law enforcement?

Eleven departments answered most or all of my questions; twelve departments either refused to answer my questions or did not know the answers. Several departments directed me to call many different numbers until I finally reached a person who could answer my questions or who responded that they did not know the answers. I was told once to contact the Michigan Sex Offender Registry Unit and twice to contact Michigan State Police if I wanted an answer to a particular question. I was once told that it is the registrant's job to know the law, and that if a registrant has questions about how to comply with the law, the registrant should look it up.

I did not receive consistent answers from local law enforcement to any of my questions. With regard to how long a registrant had to report an address change, answers ranged from three days (including weekends) to ten days. Some departments insisted that a registrant had to report shoveling snow for pay and others said a registrant did not need to report self-employment. Some departments stated that a registrant must report enrollment in online courses, others said a registrant need not report online classes. Overall, answers to my questions varied greatly from department to department.

II. Methodology

I chose departments in Michigan at random and placed calls. When I reached a person within the department, I asked if I could speak to the person within the agency who could answer some questions about the sex offender laws in Michigan. If asked "why" I would respond that I was doing a study on how certain questions were answered by law enforcement in Michigan. If asked

who I was doing the study for I would tell them I was conducting the survey for the American Civil Liberties Union (ACLU) of Michigan. (Fewer than 5 departments asked this question.)

The following is a list of the departments that I contacted:

Michigan State Police 1st District, Michigan State Police 2nd District, Michigan State Police Post 21, Michigan State Police District 3, Michigan State Police District 6, Michigan State Police Post 61, Kent County Sheriff's Department, Wayne County Sheriff's Department, Detroit City Police Department, Grand Rapids Police Department, Auburn Hills Police Department, Allen Park Police Department, Luce County Sheriff's Department, Menominee Sheriff's Department, Iron County Sheriff's Department, Iron River Police Department, Chippewa County Sheriff's Department, Cheboygan County Sheriff's Department, Cheboygan Police Department, Roscommon County Sheriff's Department, VanBuren County Sheriff's Department, Paw Paw Police Department, Jackson County Sheriff's Department, Jackson City Police Department, Michigan State Police Jackson Post

III. Results

- A. Vehicles: How many times can a registrant borrow a car before reporting that they regularly use it?

Nine departments answered this question and their answers were varied. Two Departments said they did not know the answer to this question.

MSP Post 21 said a vehicle could be borrowed six or seven times and then it must be reported. Grand Rapids P.D. said there is no number of times. Auburn Hills P.D. said there is no court case saying how many times, but whatever is reasonable. Allen Park P.D. said only a vehicle used on a regular basis must be registered. Luce County Sheriff Dept. said one or two times, but no more than two times. Iron County Sheriff Dept. said there is no specific number of times that a registrant can use a car without reporting it, even if only used from time to time. Cheboygan County Sheriff Dept. told me the law has no definition. Roscommon County Sheriff Dept. said there is no time or amount. Jackson County Sheriff Dept. said there is no number of times.

- B. Internet: Must an individual report when setting up an online bank account? Mlive account? Amazon account? X-Box account?

Eleven departments answered this question, giving varied responses.

MSP Post 21 said that the bank account did not have to be reported, but all of the rest of the accounts would have to be reported. Grand Rapids P. D. said all e-mail and user names associated with such accounts must be reported. Auburn Hills P.D. said only the e-mail address used would have to be reported. Allen Park P. D. responded that any identifier used with e-mail

accounts of any type must be reported. Luce County Sherriff Dept. said that all such accounts would have to be reported. Menominee County Sherriff Dept. said that if a registrant uses an e-mail address with such accounts then they must register them. Iron County Sherriff Dept. said all accounts that use an e-mail address must be reported. Chippewa County Sherriff Dept. said that all such accounts must be reported. Cheboygan County Sherriff Dept. said yes if a user-name is required for the accounts, they must report it. Roscommon County Sherriff Dept. said yes all the accounts must be reported. Jackson City P.D. said yes all the accounts must be reported.

- C. Address Changes: If a registrant changes their residence on a Friday, what is the latest day that he or she can report that change? Is homeless registrant who spends seven nights staying with a friend required to register at that friend's address?

Ten Departments answered this question or part of this question. One department did not know the answer to these questions.

MSP Post 21 said registrants have three business days to report an address change so it must be reported by Wednesday of the following week. In response to the second part of the question they said on the seventh day of the stay a registrant would have to report the address of his/her friend. The Grand Rapids P.D. said registrants have three business days to report and address change and that they have to report where they were staying as soon as they have personal property at the address. Auburn Hills P.D. first responded that address changes had to be made within five days, but then the person I was speaking to looked up the answer and said three days. For the second part of the question he said that a registrant must report a friend's address as a residence after staying there seven days. Allen P.D. said registrants had three days to report a change of address, but was unsure if that included weekends. As for the second part of the question the employee did not know the answer and asked if he could look it up and get back to me. The Luce County Sherriff Dept. told me they were unsure of the last day a registrant would have to report. In response to the second part of the question they said that after seven days a registrant would have to report that address. Menominee County Sherriff Dept. said registrants have ten days including Saturday and Sunday to report a change of address. In response to the second part of the question they did not know the answer and told me to call the Michigan State Police. Iron County Sherriff Dept. said registrants had three business days so he/she would have till Wednesday to report the change. As for reporting the seven day stay he said that was a hard call, but after looking it up said a registrant would not have to report it if they were homeless, but a registrant must have a mailing address and go to the Secretary of State to report said address. Chippewa County Sherriff Dept. said registrants have seven or ten days to report address changes, but were unsure whether it was seven or ten. As for the second part of this question, they did not know the answer. Cheboygan County Sherriff Dept. said a registrant has three days to report an address change including weekends and holidays. And for the second part of the question, they said on the seventh day they would have to report the address. Jackson

County Sherriff Dept. said the address change would have to be reported right away, but only after they got it changed on their Michigan I.D. card or Driver's License.

- D. Employment: Must a registrant report shoveling snow for pay? If a registrant works for an employer and subsequently changes job positions, but continues to work for that same employer, must the registrant report this to law enforcement?

Nine Departments tried answering this question or parts of this question. Two departments that answered other questions I posed responded that they did not know the answer to this particular question.

MSP Post 21 said a registrant did not have to report snow shoveling, but if the change of job with the same employer caused a change in the registrant's supervisor then the registrant would have to report that change. Grand Rapids P.D. said that the snow shoveling would have to be reported because it was self-employment, and a registrant would only have to report a change of position at work if their workplace location changed. Auburn Hills P.D. said if a registrant is self-employed shoveling snow he/she must report it and when they stop they must report that also. As for the second part of the question they said they would have to write it up and give it to their commander or to the County Prosecutor to see what would be done with a sex offender who changes jobs within the same employer. Allen Park P.D. said yes, any employment of any type must be reported to them and that a change of jobs within the same company would not need to be reported unless the address of the registrant's workplace changed. Luce County Sherriff Dept. said that if a registrant shovels snow everyday then yes it must be reported, and if they changed jobs within the same company it also must be reported. Menominee County Sherriff Dept. said that if a registrant is self-employed shoveling snow they must report it. They did not know the answer to whether a registrant must report a changed position within the same company. Iron County Sherriff Dept. said a registrant is not considered employed without a W-2. They went on to say a registrant would only have to report employment if paid by check. As for the change of jobs with the same employer, Iron County said that did not have to be reported. Cheboygan County Sherriff Dept. said a registrant did not have to report shoveling snow because it was not a permanent job, and also did not have to report a job change with the same company unless the job site changed. Jackson County Sherriff Dept. said the snow shoveling job would have to be reported if it constituted "verifiable income." As for the change of job with the same employer, they said that would not have to be reported.

- E. Education: If a registrant enrolls in online classes, must they report that to law enforcement?

Eight departments answered this question. Three departments that answered other questions I posed responded that they did not know the answer to this particular question.

MSP Post 21 said no to this being reported. Grand Rapids P.D. said no to this being reported. Auburn Hills P.D. said no to this being reported. Allen Park P.D. said the screen name

the registrant used in connection with the online classes must be reported. Luce County Sherriff Dept. said maybe it had to be reported. Iron County Sherriff Dept. said yes it would have to be reported along with the e-mail address the registrant was using to communicate with the school. Chippewa County Sherriff Dept. said they were unsure if it needed to be reported, but if the registrant has a user name then they would have to report that. Cheboygan County Sherriff Dept. said yes it would have to be reported because any higher education must be reported, and that the user name and password would also have to be reported.

- F. Travel: If a registrant intends to travel for more than 7 days, but does not know exactly where they will be staying, how should the registrant report that to law enforcement?

Seven departments answered this question. Four that answered other questions I posed responded that they did not know the answer to this particular question.

MSP Post 21 said yes a registrant would have to advise police that they are leaving, but was unsure how to fully answer the question so they advised me to call Michigan State Police Sex Offender Registration unit. Grand Rapids P.D. said they must be given an exact address or a comment would be entered by local law enforcement that the registrant does not have an exact address and will be traveling. They also responded that a registrant must follow the law of any state they are traveling to because some states require sex offenders to report if they are staying in that state for more than twenty-four hours. Auburn Hills P.D. said that the sex offenders must have an itinerary if traveling for more than three days, but he also stated that as long as the registrant worked with the department he would not prosecute them. Luce County Sherriff Dept. said a registrant must have some idea where they will be going. Iron County Sherriff Dept. said a registrant would have to report to local law enforcement that they are leaving, and they must report in person to the local law enforcement where they will end up staying each time they change locations. Chippewa County Sherriff Dept. said it was the sex offender's job to know the laws and if the sex offender does not know the law the sex offender can look it up. Cheboygan County Sherriff Department said not having an exact address would be a problem, and that a registrant must have an address and must follow the law if leaving the state of Michigan.

IV. Executive Summary of Calls to Prosecutors' Offices

On the 13th day of November 2013 I called nineteen prosecutor's offices within the state of Michigan, located in the northern part of the state and the Upper Peninsula. I asked them questions regarding their enforcement of the Sex Offender Registration Act (SORA). The questions that I asked are as follows:

- Vehicles: How many times can a registrant borrow a car before reporting that they regularly use it?
- Internet: Must an individual report when setting up an online bank account? Mlive Account? Amazon account? X-Box account?

- Address Changes: If the registrant changes their residence on a Friday, what is the latest day that they can report that change? Is a homeless registrant who spends seven nights staying with a friend required to register at that friend's address?
- Employment: Must a registrant report shoveling snow for pay? If a registrant works for an employer and subsequently changes job positions, but continues to work for that same employer, must the registrant report this to law enforcement?
- Education: If a registrant enrolls in online classes, must they report that to law enforcement?
- Travel: If a registrant intends to travel for more than 7 days, but does not know exactly where they will be staying, how should that registrant report that to law enforcement?

Of the nineteen offices I called, only two answered all of my questions. Five offices told me to contact a private attorney if I wanted my questions answered. Six offices told me to contact another state agency, usually local law enforcement. On four occasions I was unable to reach the person in the office who deals with the registry. I was given varied answers by the two offices that answered my questions. For example, the Delta County Prosecutor's Office informed me that a registrant had one week to report a change of address, while the Menominee County prosecutor's Office said that a registrant has ten or fifteen days to report an address change.

V. Methodology

I was asked by Ms. Aukerman to contact a random sampling of prosecutor's offices in northern Michigan and the Upper Peninsula. When I reached a person within the department, I told them I was calling to get some answers to a set of questions regarding the sex offender registry laws in Michigan. If asked my name, I would tell them my name is Tim Poxson and spell my name. None of the agencies I called asked why I was calling with questions or who, if anyone, I was working for.

I attempted to contact the following offices:

Cheboygan County Prosecutor's Office, Alger County Prosecutor's Office, Alpena County Prosecutor's Office, Baraga County Prosecutor's Office, Benzie County Prosecutor's Office, Chippewa County Prosecutor's Office, Delta County Prosecutor's Office, Dickinson County Prosecutor's Office, Gogebic County Prosecutor's Office, Grand Traverse County Prosecutor's Office, Houghton County Prosecutor's Office, Iron County Prosecutor's Office, Keweenaw County Prosecutor's Office, Luce County Prosecutor's Office, Mackinac County Prosecutor's Office, Marquette County Prosecutor's Office, Menominee County Prosecutor's Office, Ontonagon County Prosecutor's Office, and Schoolcraft County Prosecutor's Office.

VI. Results

- A. Cheboygan County Prosecutor's Office: They advised me to call a private attorney or check with the Sheriff's Department. Prosecutor Daryl P. Vizina recommended that it would be best to talk to a private attorney.
- B. Alger County Prosecutors Office: I was advised to talk to the Probation and Parole office agent Bill Shidding, but also told that he would be hard to reach. I was transferred to his number but he was not in.
- C. Alpena County Prosecutors Office: I was told to go to the State of Michigan website for answers to questions or to call a private attorney.
- D. Baraga County Prosecutor's Office: I was told to call the Michigan State Police to get answer to my questions.
- E. Benzie County Prosecutor's Office: I was told they cannot give those types of answers and to call a private attorney.
- F. Chippewa County Prosecutor's Office: I was connected to the person who works with the sex offender registry. I asked the first question: how many times can a registrant borrow a car before reporting that they regularly use it? The individual responded, "I do not know the answer to that question." I then asked the second question: must an individual report when setting up an online bank account? Mlive account? Amazon account? X-Box account? The individual responded, "I do not know the answer to that question." After my second question, I was then told to call the Michigan State Police with the rest of my questions.
- G. Delta County Prosecutor's Office: I was told the person that could answer questions about the sex offender registry would be available at 9:15. At 9:15 I called back and asked to talk with that individual, and was connected and he answered all my questions. The questions and answers are listed as I asked them and he answered them. How many times can a registrant borrow a car before reporting that they regularly use it? "I do not know the answer to that question." Must an individual report when setting up an online bank account? Mlive account? Amazon account? X-Box account? "No." If a registrant changes their residence on a Friday, what is the latest day that they can report that change? "Within one week." Is a homeless registrant who spends seven nights staying with a friend required to register at that friend's address? "Any place they stay for more than seven days must be reported." Must a registrant report shoveling snow for pay? "I do not know the answer to that question." If a registrant works for an employer and subsequently changes job positions, but continues to work for that same employer, must the registrant report this to law enforcement? "No." If a registrant enrolls in online classes, must they report that to law enforcement? "I do not know the answer to that question." If a registrant intends to travel for more than seven days, but does not know exactly where they will be staying, how should the registrant report that to law enforcement? He

- responded that if I wished he would find the answers to the questions he did not know and then e-mail me the answers. I did not take him up on that offer.
- H. Dickinson County Prosecutor's Office: I was told to contact the Iron Mt. State Police Post as the prosecutor's office does not answer questions for the public, including general questions.
 - I. Gogebic County Prosecutor's office: The phone was answered by an answering machine and I was asked to leave a message.
 - J. Grand Traverse County Prosecutor's office: I was told that the person who handles the sex offender registry was in court. I was also told that person is hard to reach, but I could leave a message.
 - K. Houghton County Prosecutor's Office: I was told that all prosecutors were in court today and to call the Michigan State Police. I was told that they should know all the laws as the prosecutor's office only has two prosecutors and they are in court most of the time. I was told it would be hard for them to call me back.
 - L. Iron County Prosecutor's Office: I was advised that they are not available to answer questions as they only have one prosecutor. I was advised to call a private attorney.
 - M. Keweenaw County Prosecutors Office: I was advised they cannot answer the questions because they only have one prosecutor and that the person I was talking to did not know whom to call to get answers to my questions.
 - N. Luce County Prosecutor's Office: A recording answered the phone saying no one was available to answer the phone and to leave a message.
 - O. Mackinac County Prosecutor's Office: I was advised that the prosecutor was in court and may be back at 11:00 am, but they only have the one prosecutor.
 - P. Marquette County Prosecutor's Office: I was advised to call a private attorney as the prosecutor's office cannot give legal advice.
 - Q. Menominee County Prosecutor's Office: I was transferred to the elected Prosecutor. The questions are listed in the order I asked them with the answers. How many times can a registrant borrow a car before reporting that they regularly use it? "There is no requirement to report borrowed vehicles." Must an individual report when setting up an online bank account? Mlive account? X-Box Account? "No unless they are on probation or parole." If a registrant changes their residence on a Friday, what is the latest day that he or she can report that change? "Ten or fifteen days." Is a homeless registrant who spends seven nights staying with a friend required to register at that friend's address? "If they regularly stay they must report it." Must a registrant report shoveling snow for pay? "No." If a registrant works for an employer and subsequently changes job positions, but continues to work for that same employer, must they report that to law enforcement? "No." If a registrant enrolls in online classes, must they report that to law enforcement? "No unless they are on probation or parole." If a registrant intends to travel for more than seven days, but does not know exactly where they will be staying, how should the registrant report that to law

enforcement? "Traveling is not required to be reported in or out of state as long as they are not moving permanently."

- R. Ontonagon County Prosecutor's Office: After asking them the first question, I was told that questions about the sex offender registry should be directed to a private attorney or the Sherriff's Department.
- S. Schoolcraft County Prosecutor's Office: I was advised by an assistant prosecutor that their office does not have the answers to the sex offender registry laws and to call the Michigan State Police.

Pursuant to 28 U.S.C. § 1746, I state under penalty of perjury under the laws of the United States that the above statements are true and correct to the best of my knowledge, information and belief.

Dated: 1-14-2014

A handwritten signature in black ink, appearing to read "Timothy E. Byson", written over a horizontal line.